



Appeal Decisions

Site visit made on 1 May 2025

by **B Pattison BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22 May 2025

Appeal A Ref: APP/C5690/W/24/3357695

80 Sydenham Road, Lewisham, London SE26 5JX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Greener Assets Ltd against the decision of the Council of the London Borough of Lewisham.
 - The application Ref is DC/24/137583.
 - The development proposed is change of use of existing ground floor commercial (Use Class E) to residential (Use Class C3) to provide 4 one - bedroom self-contained flats (Use Class C3) at 80 Sydenham Road SE26.
-

Appeal B Ref: APP/C5690/W/24/3357723

80 Sydenham Road, Lewisham, London SE26 5JX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Greener Assets Ltd against the decision of the Council of the London Borough of Lewisham.
 - The application Ref is DC/24/137584.
 - The development proposed is change of use of existing ground floor commercial (Use Class E) to residential (Use Class C3) to provide 3, one bed studios and 1, one bedroom / 2 person self-contained flat (Use Class C3) at 80 Sydenham Road SE26.
-

Decisions

Appeal A

1. The appeal is allowed, and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 for the change of use of existing ground floor commercial (Use Class E) to residential (Use Class C3) to provide 4 one - bedroom self-contained flats (Use Class C3) at 80 Sydenham Road, Lewisham, London SE26 5JX in accordance with the terms of the application, Ref DC/24/137583, and the details submitted with it, subject to the conditions set out in the attached schedule.

Appeal B

2. The appeal is allowed and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 for the change of use of existing ground floor commercial (Use Class E) to residential (Use Class C3) to provide 3,

one bed studios and 1, one bedroom / 2 person self-contained flat (Use Class C3) at 80 Sydenham Road, Lewisham, London SE26 5JX in accordance with application, Ref DC/24/137584, and the details submitted with it, subject to the conditions set out in the attached schedule.

Application for Costs

3. An application for costs was made by Greener Assets Ltd against the Council. This application is the subject of a separate decision.

Preliminary Matters

4. The descriptions in the above banner headings have been taken from the decision notice because the descriptions provided in the planning application forms were lengthy and included extraneous information. The decision notice descriptions accurately reflect the proposed development, however, I have deleted the references to “Prior Approval” and “Town and Country Planning (General Permitted Development) Order” from the descriptions as these are not acts of development.
5. Article 3(1) and Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO) permit the change of use of a building within Class E (commercial, business and service) of the Use Classes Order (UCO) to a use within Class C3 (dwellinghouses) of the UCO.
6. The provisions of the GPDO require the local planning authority to assess the proposed development on the basis of the conditions, limitations or restrictions specified in paragraphs MA.1 and MA.2. My determination of this appeal has been made on the same basis. The GPDO does not require I have regard to the development plan. Therefore, I have had regard to the policies of the London Plan (2021), the Lewisham Core Strategy (2011) and the Lewisham Development Management Plan (2014) only in so far as they are a material consideration relevant to the prior approval matters.
7. The conditions of paragraph MA.2 require determination of the transport impacts of the development, particularly to ensure safe site access. The Council’s second reason for refusal relates to this issue. There is no dispute that the other criteria of Class MA are satisfied. As such, there is no need to give them further consideration within this decision.
8. However, before prior approval under Class MA can be evaluated, it is necessary to determine whether or not the proposal falls to be considered as ‘permitted development’. Article 3(9A)(b) of the GPDO sets out that Schedule 2 does not grant planning permission for, or authorise any development of, any new dwellinghouse that does not comply with the nationally described space standard issued by the Department for Communities and Local Government on 27 March 2015, as read with the notes dated 19 May 2016 which apply to it.

Main Issues

9. Having regard to the objections raised by the Council in relation to the prior approval matters, the main issues for both appeal A and appeal B are whether prior approval should be granted having regard to:

- whether the proposals would be permitted development under Article 3(9A)(b) of the GPDO where it requires new dwellinghouses to comply with the nationally described space standard; and
- whether the transport impacts of the developments are acceptable, particularly to ensure safe site access.

Reasons

Space standards

10. Article 3(9A) of the GPDO provides that Schedule 2 does not permit any new dwellinghouse where the gross internal floorspace is less than 37 square metres or there is not compliance with the Technical housing standards – nationally described space standards (2015) (NDSS).
11. The main parties agree that each of the residential units would meet the NDSS requirement to have a minimum floor to ceiling height of 2.3 metres for at least 75% of the Gross Internal Area.
12. The Council point to the requirements of London Plan (2021) policy D6 for residential units to have a minimum floor to ceiling height of at least 2.5 metres for at least 75% of the Gross Internal Area and to have private outdoor space.
13. However, the NDSS does not require dwellings to provide private outdoor space or to have a floor to ceiling height greater than 2.3 metres. Consequently, providing that compliance with the NDSS is achieved, there is no requirement within paragraph MA.2 of the GPDO for a further determination in relation to the size or external space of the dwellings. Therefore, I find no grounds to reject the claim for a development demonstrated as capable of meeting the NDSS.
14. In conclusion, as all four dwellings would meet the minimum requirements set out in the NDSS, the proposal would be permitted development on account of Article 3(9A) of the GPDO.

Transport and highways impact

15. The Council's reasons for refusing prior approval relates to suitable waste and recycling storage. It is suggested that each residential unit should be provided with one refuse bin and one recycling bin, which would equate to eight bins, although I have not been referred to any relevant policy or guidance, which outlines requirements for refuse storage.
16. A storage area for refuse and recycling is shown on the submitted plans for both appeals. Whilst the submitted drawings showed 5 bins within the store, alternative drawings within the appellant's Statements of Case for both appeals indicate how 7, 240 litre bins could be stored within the bin store. Correspondence with the Council's Waste Initiatives and Contracts Manager¹ indicates that 7 bins and 2 x 23 litre food waste bins would be sufficient.
17. The drawings indicate that there would be room to store the 7 refuse and recycling bins, with some space remaining in this area to accommodate the 4 small food waste bins. In both appeals, the refuse store would also be enclosed by a door such that waste could be stored without impeding the main access or the adjacent

¹ Appendix 2 of the appellant's Statements of Case

highway. There would be no use of the back alley for the storage of refuse. Consequently, insofar as this issue is relevant to this prior approval matter, the proposal would make adequate provision for waste management to ensure safe access in and around the appeal property.

18. In relation to appeal B, the submitted plans show internal areas within each of the dwellings where future occupants could store cycles. The access to Unit 1's cycle store involves a single 90 degree turn, and the store's bi-folding doors would provide easy access and storage of a bicycle. Access to Unit 3 involves three separate doors and a 90 degree turn. However, there would be sufficient width in this part of the property, such that future occupants, with their cycles, could pass through the doors. As such, it seems to me that individuals able to cycle would not find it a significant challenge to access the internal cycle stores with their cycles.
19. The doors to Flats 2 and 4 open into the property, and this would allow future occupants to access and exit the property safely without coming into conflict with pedestrians or road users on Girton Road. Furthermore, the cycle stores would make provision for the secure parking of cycles for each of the residential units and this would encourage future occupants to make sustainable transport choices.
20. I therefore find that Appeals A and B would be acceptable, having regard to transport impacts and safe site access. Although not determinative in this case, the proposal would accord with Policy T4 of the London Plan (2021), and Objective 8 and Policy 13 of the Lewisham Core Strategy (2011). These policies collectively seek, amongst other matters, sustainable waste management and that development proposals should not increase road danger.

Other Matters

21. Matters relating to the ventilation of the flats, security, the effect on the local high street and outlook for future occupiers are outside the scope of the GPDO assessment of this appeal. Neither the potential for further development on the site, such as the installation of air conditioning units, nor any previous lease management affairs are considerations that would alter my assessment of the current appeal which I have considered on its own merits.
22. Matters relating to transport and highways has been assessed and the Council conclude that the applicant has undertaken a parking stress survey which shows there is capacity to accommodate on street parking demand from the developments. From the evidence before me and my own observations on site, I have no reason to disagree with this assessment.
23. An Article 4 Direction to restrict development within Class MA in Part 3 of Schedule 2 of the GPDO will come into force on 1st November 2025. However, as this appeal has been determined in advance of that date, the Article 4 Direction has not been determinative in my assessment. The Council's report confirms that the appeal site is not within a conservation area, and therefore this issue has not been determinative in my assessment.
24. Whether other residential units have been created within other areas of the building and any waste dumping incidents associated with this are outside the scope of this decision, and are matters for the Council to investigate.

25. An interested party has provided photographs to indicate that internal partitions have been installed within the property. Whilst this may be the case, I have no substantive evidence that these internal alterations would require planning permission, or amount to a change of use.

Conditions

26. Paragraph W (13) of the GPDO allows for the grant of prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval.
27. Development under Class MA is permitted subject to conditions at Paragraphs MA.2. (5) and (6) which include that the development must be completed within a period of 3 years starting with the prior approval date; and that any building permitted to be used as a dwellinghouse by virtue of Class MA is to remain in use as a dwellinghouse within the meaning of Class C3 of Schedule 1 to the Use Classes Order and for no other purpose, except to the extent that the other purpose is ancillary to the use as a dwellinghouse.
28. The Council has suggested two conditions it would wish to see imposed should prior approval be granted. The provisions at Paragraph W (12) require that development must be carried out in accordance with the approved details, however in the interest of clarity and certainty I have attached conditions setting out the approved plans.
29. Conditions relating to cycle storage and refuse stores are necessary to ensure that the transport impacts of the development are acceptable.

Conclusion

30. For the reasons given above the appeals should be allowed and prior approval is deemed to be granted for appeals A and B.

B Pattison

INSPECTOR

SCHEDULE OF CONDITIONS

Appeal A

- 1) The development hereby approved shall be carried out in accordance with the following approved plans: 23.4450/00 (ground floor as existing); 23.4450/01op1 Rev.K (ground floor as proposed PD 4 no Flats OP1); 23.4450/02 Rev.C (Elevations as existing and as proposed); 23.4450/02 (Location & Block Plan); 23.4450/04op1 (Sections as existing and as proposed); 23.4450/05 (Elevations as existing and as proposed).
- 2) Prior to the first occupation of the development hereby permitted, the cycle store and refuse store shall be constructed in accordance with the approved plan Ref 23.4450/01op1 Rev.K and these stores will be retained for their intended uses and kept free of obstructions thereafter.

Appeal B

- 1) The development hereby approved shall be carried out in accordance with the following approved plans: 23.4450/00; 23.4450/01 Rev.F; 23.4450/02 Rev.C; 23.4450/02 (Location & Block Plan); 23.4450/04op2; 23.4450/05.
- 2) Prior to the first occupation of the development hereby permitted, the cycle stores and refuse store shall be constructed in accordance with the approved plan Ref 23.4450/01 Rev.F and these stores will be retained for their intended uses and kept free of obstructions thereafter.

END OF SCHEDULE